



Dr Marisa Paterson MLA

Minister for Police, Fire and Emergency Services
Minister for Women
Minister for the Prevention of Family and Domestic Violence
Minister for Corrections
Minister for Gaming Reform

Member for Murrumbidgee

Mr Tom Duncan
Clerk
ACT Legislative Assembly
GPO Box 2010
CANBERRA ACT 2601

Our ref: PRO24/3931

17 December 2024

Dear Clerk

Thank you for your letter, addressed to Mr Chris Steel in his former capacity as Special Minister of State, concerning petition E-PET-015-24 regarding lowering the voting age to 16 for ACT elections and lodged by Mr Michael Pettersson MLA. I am responding in my capacity as Acting Attorney-General with administrative responsibility for the *Electoral Act 1992*.

I apologise for the slight delay in providing this response to you, which has been caused by the ACT Government caretaker period during which time the government could not consider the petition.

The issue of lowering the voting age in the ACT has been the subject of much discussion in the Territory and other Australian jurisdictions for many years. The Standing Committee on Justice and Community Safety's *Inquiry into the 2020 ACT Election and Electoral Act* considered lowering the voting age as part of its terms of reference. In its report, the Committee recommended that the voting age be retained at 18 years on the basis that there were current barriers to lowering the voting age, including the interaction between the Electoral Act and Commonwealth legislation, and the entrenched provisions of the *Proportional Representation (Hare-Clark) Entrenchment Act 1994*.

While it was suggested to the Committee that a creative legislative work-around might establish people aged 16 and 17 years a special category of voter, and enable them to choose to vote in

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Territory elections on a voluntary basis, the Committee was of the view that this would gradually erode community support for compulsory voting.

In December 2021, a Private Members' Bill, the Electoral Amendment Bill 2021, was presented to the ACT Legislative Assembly which proposed lowering the voting age for Territory elections from 18 to 16 years. The Bill was subsequently referred to the Standing Committee on Justice and Community Safety. In January 2022, a Government Submission was provided to the Chair of the Standing Committee which also highlighted a range of legal and practical considerations arising from the proposal, including importantly, that the Bill would expose young people aged under 18 years to criminal offences and penalties. As you would be aware, the Bill was not passed by the Assembly.

More recently, the federal Joint Standing Committee on Electoral Matters Inquiry into the conduct of the 2022 federal election also considered the extension of voting rights to 16- and 17-year olds, and ultimately did not recommend that the federal Parliament amend the law.

I acknowledge that many young people in the ACT community seek to be able to vote from the age of 16, rather than 18, and this view is supported by others in the community. The engagement of young people in the political process through existing mechanisms is positive. Further, as a human rights jurisdiction, the ACT Government acknowledges that young people have rights as children including to express their views (section 11, *Human Rights Act*) and the right to take part in public life (s 17, *Human Rights Act*).

The proposal put forward by petitioners to lower the voting age for the ACT is not supported by the ACT Government due to a range of legal and practical considerations, which I have outlined below.

Any consideration to lowering the voting age in the ACT would need to address the implications for the maintenance of a separate electoral roll for 16- and 17-year-old electors, noting that there is a joint Commonwealth/Territory electoral roll. This may result in significant costs implications for the Territory. Additional staff and resourcing would also be required for the ACT Electoral Commission to conduct education, enrolment drives and electoral services arising from the proposal.

While the petition does not identify whether the petitioners consider that voting for 16- and 17-years olds in the ACT should be compulsory or voluntary, there are significant considerations with both models.

Compulsory voting is a feature of the ACT electoral system. Under the *Electoral Act 1992*, failure to vote attracts a penalty. If a person fails to provide a valid and sufficient reason to vote or pay a \$20 fine, the person will be issued a summons to attend court, where the prosecution process is then managed by the Director of Public Prosecutions (DPP). If the compulsory voting age were lowered to 16, young people who failed to vote could be prosecuted and face the possibility of conviction and criminal sanction. This would have significant impacts on a young person's life. Further, the imposition of penalties for failure to vote may result in an unreasonable limitation on the rights of children to be protected (section 11, *Human Rights Act*). This issue was considered by the Standing Committee on Justice and Community Safety when inquiring into the Electoral Amendment Bill 2021, and no clear solution to this problem arose during the inquiry.

Alternatively, if the proposed model to lower the voting age is not compulsory, this would require the entrenched principle regarding compulsory voting in the *Proportional Representation (Hare-Clarke) Entrenchment Act 1994* to be altered. Any attempt to introduce optional voting for some members of the community would negatively impact the importance of compulsory voting in the ACT and undermine the value of the democratic process.

The petition lists seven countries where the voting age has been lowered to 16. Unlike the ACT and other elections in Australian jurisdictions, voting is not compulsory in Austria, Malta, Scotland, Germany and Wales. While voting is compulsory in Argentina and Brazil, this is only for voters aged 18 and over. Therefore, it is difficult to compare electoral processes in these international jurisdictions with the ACT.

Ensuring young people are engaged in the political process is important to the ACT Government and the government is open to exploring new ways of ensuring their voices are not only given a platform but are heard. This is already facilitated by the ACT Youth Advisory Council, which provides an important avenue for young people to take a leading role in participation and consultation activities on issues that affect their lives, raise awareness of the aspirations, needs and concerns of young people within government and the community, and facilitate interaction between young people, the ACT Government and the wider community.

On 4 December, the Legislative Assembly passed a motion for the Standing Committee on the Integrity Commission and Statutory Office Holders to inquire into the operation of the 2024 ACT Election and the *Electoral Act 1992*. The Committee will consider the issue of expanding the voting franchise in the ACT further as part of this inquiry.

Yours sincerely

A handwritten signature in black ink that reads "M. Paterson". The signature is written in a cursive, slightly slanted style.

Dr Marisa Paterson MLA
Acting Attorney-General